

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

TYRELL O'NEAL BROWN,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 3:18CV505–HEH
)	
CHRISTOPHER ROBINSON, <i>et al.</i> ,)	
)	
Respondents.)	

MEMORANDUM OPINION
(Dismissing 28 U.S.C § 2254 Petition Without Prejudice)


Petitioner, proceeding *pro se*, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Before a state prisoner can bring a § 2254 petition in federal district court, the prisoner must first have “exhausted the remedies available in the courts of the State.” 28 U.S.C. § 2254(b)(1)(A). Exhaustion is accomplished by presenting the claims to the Supreme Court of Virginia for review either on direct appeal or in a collateral proceeding. Petitioner failed to indicate whether he has filed an appeal or any other challenge to his state conviction in the Supreme Court of Virginia. Thus, the record failed to indicate that Petitioner has properly exhausted his state court remedies with respect to his three claims. Accordingly, by Memorandum Order entered on October 9, 2018, the Court directed Petitioner to show cause, within eleven (11) days of date of entry hereof, as to why his § 2254 Petition should not be dismissed for lack of exhaustion.

On October 22, 2018, Petitioner responded to the October 9, 2018 Memorandum Order. Petitioner acknowledges that he has not exhausted his state court remedies. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE. Petitioner may refile after he has presented his claims to the Supreme Court of Virginia by filing a direct appeal or a petition for a writ of habeas corpus. A certificate of appealability will be denied.

An appropriate order will accompany this Memorandum Opinion.

It is so ordered.

Date: **Dec. 18, 2018**
Richmond, Virginia


_____/s/
Henry E. Hudson
Senior United States District Judge